

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**GONZALO ARIZMENDI, #26737-077,** §  
Petitioner, §  
§  
v. § 3:14-CV-528-P-BK  
§ (3:95-CR-253-P)  
**E. MEJA, Warden FCI Seagoville,** §  
Respondent. §

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

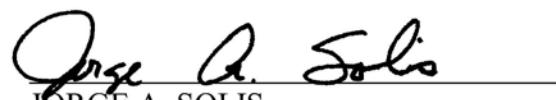
The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the petition for writ of habeas corpus under 28 U.S.C. § 2241 is summarily **DISMISSED** without prejudice.

Because Petitioner filed his petition under 28 U.S.C. § 2241, he is not required to obtain a certificate of appealability in the event of an appeal. *Padilla v. United States*, 416 F.3d 424, 425 (5th Cir. 2005) (*per curiam*). However, the Court prospectively **CERTIFIES** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this certification, the Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the Findings and Recommendation, the Court finds that any appeal of this action would present no legal point of arguable merit and would,

therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).<sup>1</sup> In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; FED. R. APP. P. 24(a)(5).

SO ORDERED this 12<sup>th</sup> day of May, 2014.

  
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JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith.